



California Fair Political Practices Commission

August 27, 1987

Douglas Hickling, Assistant County Counsel
Alameda County
1221 Oak Street, Fourth Floor
Oakland, CA 94612

Re: Your Request for Advice
Our File No. A-87-214

Dear Mr. Hickling:

You have requested advice regarding the applicability of Section 84308 to the Alameda County Transportation Authority.

QUESTION

Are members of the Alameda County Board of Supervisors subject to the provisions of Section 84308 of the Political Reform Act (the "Act") 1/ when sitting as ex-officio members of the Alameda County Transportation Authority?

CONCLUSION

Yes, the supervisors are subject to the provisions of Section 84308 when serving on the Alameda County Transportation Authority.

FACTS

The Alameda County Transportation Authority is comprised of the five members of the Alameda County Board of Supervisors, and four elected city officials. One of the elected city officials is designated by the mayor of Oakland and the other three are named by the Alameda County Mayor's Conference. The members of the board of supervisors are required to serve on the authority as part of their official duties. They constitute a quorum of the transportation authority.

ANALYSIS

Section 84308 deals specifically with campaign contributions and government decision-making by officials serving on a specific type of public agency. The law applies to board members, commissioners or other individuals who serve

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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on state or local government agencies defined in Section 84308(a)(3), and who make decisions in proceedings which involve licenses, permits, or other entitlements for use.

Section 84308(a)(3) exempts from the definition of "agency": "...local governmental agencies whose members are directly elected by the voters...." Section 84308(a)(3) goes on to more narrowly refine the exemption by adding: "However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency."

Regulation 18438.1(b) further clarifies the local government bodies which are exempted from the definition of "agency" for purposes of Section 84308:

(b) The exemption for the officers of local governmental agencies who are directly elected by the voters applies only to agencies whose entire membership consists of officers directly elected by the voters to serve on that agency.

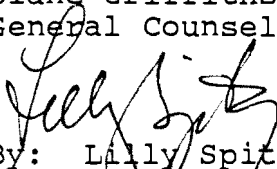
The members of the Alameda County Board of Supervisors are directly elected by the voters. Thus when the board of supervisors sits as a body, in its entirety, without additional members, the supervisors are exempt from Section 84308. (See Hopkins Advice Letter, No. 83-009, copy enclosed.) This is the case when the board of supervisors operates as the Alameda County Flood Control and Water Conservation District.

However, when the board of supervisors is required to serve in its entirety with other individuals, to constitute a public agency, the supervisors are subject to the requirements of Section 84308. (See Strauss Advice Letter, No. 83-008, copy enclosed). Thus, all members of the transportation authority are subject to Section 84308.

I trust this clarifies application of the law to the circumstances you outlined. If you have any further questions, please don't hesitate to contact me at (916) 322-5901.

Sincerely,

Diane Griffiths
General Counsel


By: Lilly Spitz
Counsel, Legal Division

LS:DGM:jaj
Enclosures



COUNTY COUNSEL

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AUG 27 12-5700 PM '87

August 7, 1987

State of California
Fair Political Practices Commission
P. O. Box 807
Sacramento, California 95804
Attn: Mr. Robert Leidigh

Dear Sir or Madam:

Several months ago your office informally advised us by telephone that, when the Alameda County Board of Supervisors acts in its ex-officio capacity as the Alameda County Flood Control and Water Conservation District, it is not an agency subject to the provisions of section 84308 of the Government Code because all of its members are directly elected by the voters.

We would appreciate your response to a somewhat similar question:

Are members of the Board of Supervisors subject to the provisions of section 84308 when sitting as ex-officio members of the Alameda County Transportation Authority?

Note: The Authority is comprised of all five members of the Board of Supervisors and four elected city officials, one designated by the Mayor of Oakland and the other three named by the Alameda County Mayor's Conference. The members of the Board of Supervisors have no choice but to serve on the Authority where they constitute a quorum.

Very truly yours,

RICHARD J. MOORE,
County Counsel

By

Douglas Hickling
DOUGLAS HICKLING,
Assistant County Counsel

DH/pb/5527J